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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,460	12/31/2003	Martin Mitchell Zentner	9D-DW-25158	4979
7590		07/05/2007	EXAMINER	
John S. Beulick		CHAUDHRY, SAEED T		
Armstrong Teasdale LLP		ART UNIT		
Suite 2600		PAPER NUMBER		
One Metropolitan Square		1746		
St. Louis, MO 63102		MAIL DATE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/750,460	Applicant(s) ZENTNER ET AL.	
	Examiner Saeed T. Chaudhry	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Applicant's amendments and remarks filed April 6, 2007 have been acknowledged by the examiner and entered. Claims 1-9 have been canceled and claims 10-20 are pending in this application for consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(f) he did not himself invent the subject matter sought to be patented.

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Gadini.

Gadini (6,823,878) discloses a dishwasher having a wash chamber and a turbine flow meter for metering water inside the tub. A washing machine consists of a generic dishwasher, whose tub 101 has wash fluid spraying means, which are represented by two known rotary spraying arms 102 and 103; reference 104 indicates a wash pump for picking up the wash liquid

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from the tub bottom 101 and convey it through an appropriate duct 105 to the arms 102 and 103.

The precise metering of the softened water inside the tub 101, with the relevant closure of the valves 109, VA, 112 and 114, can be obtained with any known technique, for example through the use of a standard pressure-switch or turbine flowmeter, or by means of metering tanks or dosing containers for the wash water of known type and operation (see col. 15, lines 8-14 and col. 17, lines 55-60).

The machine control system will only provide for the opening of the valves 9 and 20, to let a predetermined amount of water to enter the hydraulic circuit of the machine, substantially equal to the amount of water required for filling the tanks 17 and 26, the duct 8 downstream the tank 26, the decalcifier 10, the duct 19 and the length of the duct 12 being upstream the valve 13; the value of such an amount of water is properly coded within suitable memory means of the machine control system (in the specific instance, an electronic control system).

The achievement of the above predetermined volume is detected by the flow sensor 27, which is connected to an appropriate input of the electronic control system; in other words, the control system will compare the gradually increasing value signalled by the sensor 27, and compare it with the preset value stored in the control system itself. When the two values coincide, the control system provides for closing the valves 9 and 20 (see col. 10, lines 21-39).

Once the tanks 17 and 26 are filled as described above and the valves 9 and 20 closed, the machine control system provides for opening the valve 13 alone, so as to discharge all water contents of the tank 26, the duct 8, the decalcifier 10 and the lengths of duct 12 and 19 upstream the valves 13 and 20 into the tub 1.

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Thereafter, the control system provides for opening the valve 9 and maintain the valve 13 open to allows a further water supply from the main, which will flow in the tank 26, the duct 8, the decalcifier 10, the duct 12 and then reach the tub 1 (see col. 10, lines 55-65).

According to this application, a second water quantity value is coded in the memory means of the control system; this value substantially corresponds to the difference between the total amount of water to be supplied to the tub and the amount of water available in the tank 26, in the duct 8 downstream the tank 26, in the decalcifier 10 and in the lengths of ducts 12 and 19 upstream the valves 13 and 20.

Consequently, being the valves 9 and 13 open, the control system compares the gradually increasing value signalled by the sensor 27, and compares it with the said second value stored in the control system itself. When the two values coincide, the control system appropriately closes the valves 9 and 13, since the necessary amount of water has been supplied to the tub 1 (see col. 11, lines 1-12).

Further, the claimed turbine ratemeter is equivalent to turbine flowmeter of Gadini since both are measuring volume of liquid.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gadini in view of Whipple, III et al.

Gadini was discussed supra. However, the reference fails to detect cavitation of a pump.

Whipple, III et al (5,330,580) disclose a dishwasher having a wash chamber; a pump motor configured to pump liquid into the wash chamber and a controller coupled to the motor to detect a cavitation of the pump.

A dishwasher for cleansing food handling items with a liquid comprising: a frame for containing food handling items to be cleansed; means for providing a liquid to said frame; a circulation pump for distributing said liquid in said frame; a motor coupled to said pump; a sensor for detecting power consumption surges in said motor as said frame receives said liquid; and a controller, responsive to said sensor, for controlling said liquid providing means, said controller comprising a microprocessor incorporating a fuzzy-logic feedback control algorithm adapted to process an elapsed time for distributing said liquid, an amplitude of the power consumption surges and an average slope of the power consumption surges to control said liquid providing means. Wherein said motor comprises an alternating current motor having an alternating voltage with a first phase in which the alternating current has a second phase; said sensor for detecting power consumption surges being capable of measuring the magnitude of the difference between said first phase and said second phase (see claims 1-6). The reference fails to disclose a turbine ratemeter.

It would have been obvious at the time applicant invented the claimed dishwasher to incorporate sensor for detecting cavitation in the pump as disclosed by Whipple, III, et al into the dishwasher of Gadini to increase the efficiency of the dishwasher since Whipple III, et al disclose that variation in the amount of liquid needed to satisfactorily clean varying amounts of soiled articles. Further, Gadini discloses to store the predetermined vale of liquid and second valve of liquid. Therefore, one of ordinary skill in the art would configured the controller with the pump to detect the cavitation as disclosed by Whipple III, et al to store the vales of the liquid before the cavitations and after the cavitations. Gadini discloses a controller which is capable of storing and delivering the liquid to the wash chamber. Therefore, one of ordinary skill in the art would manipulate the controller of the Gadini to deliver the liquid after the power lose as these vales are stored in the controller.

Response to Applicant's Arguments

Applicant argued that Gadini does not describe nor suggest a dishwasher including a turbine ratemeter in flow communication with a valve, wherein the turbine ratemeter generates a signal comprising a plurality of square waves representing a quantity of water flow through the valve, and a controller signal communication with the ratemeter controlling the valve in response to the signal received from the turbine ratemeter.

This argument is not persuasive because turbine flowmeter are equivalent to turbine ratemeter, which are conventional and generate square waves. Further, Gadini discloses that “the precise metering of the softened water inside the tub 101, with the relevant closure of the valves 109, 112 and 114, can be obtained with any known technique for example turbine flowmeter (see col. 17, line 55-59). Therefore, Gadini’s turbine flowmeter generates square waves for controlling flow of the fluid into the tub by comparing the first value and the second value signaled from the sensor, which is equivalent to the signal received from the turbine ratemeter as claimed herein and reads on the claimed dishwasher.

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Applicant's arguments filed April 6, 2007 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

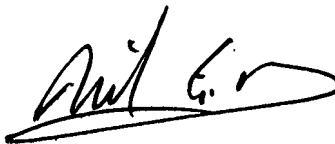
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.

Saeed T. Chaudhry
Patent Examiner



MICHAEL BARR
SUPERVISORY PATENT EXAMINER